

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14359 of John T. Rhines Co., Inc., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the prohibition against allowing structural alterations to a nonconforming use (Paragraph 7106.13) for proposed alterations to a funeral home in a C-1 District at premises 3015 - 12th Street, N.E., (Square 3933, Lot 45).

HEARING DATE: November 27, 1985

DECISION DATE: November 27, 1985 (Bench Decision)

FINDINGS OF FACT:

1. The subject site, known as premises 3015 12th Street, N.E., is located on the east side of 12th Street, between Irving and Hamlin Streets. It is in a C-1 District.

2. The subject site is basically rectangular in shape with a frontage of 100 feet along Hamlin Street and 200 feet along 12th Street. A stem measuring 100 feet in depth and twenty feet in width, extends from the northeast corner of the lot.

3. The site is improved with a one and a half story brick structure, measuring approximately 81.55 feet by 71.5 feet, that is occupied by a nonconforming use, a funeral home.

4. The C-1 District extends to the north, west and south of the subject structure. The R-1-B District is located to the east of the subject site.

5. Pursuant to Paragraph 8207.11 of the Zoning Regulations the applicant is seeking a variance from the prohibition against allowing structural alterations to a nonconforming use (Paragraph 7106.13) to allow alterations to be made to the funeral home.

6. Paragraph 8207.11 empowers the BZA to grant an area variance, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under this Act would result in peculiar and exceptional practical difficulties to the owner of such property,

provided such relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and map.

7. Paragraph 7106.13 states in pertinent part that that structural alterations are not allowed to a structure or portion thereof devoted to a nonconforming use except alterations required by other municipal law or regulations.

8. The applicants do not propose expanding the subject structure but intend to refurbish and remodel it since it requires a more contemporary appearance, and to provide access for the handicapped.

9. On the 12th Street facade there are currently ten rises from the sidewalk level to a concrete platform at the main entrance of the funeral home. The applicants propose to lower the entrance to the sidewalk level. Immediately inside the entrance will be steps and a chairlift for the handicapped which lead up to the main floor.

10. A grade to roofline glass entrance will replace the existing doors and brick steps and a vaulted skylight will be added over the lobby. The sign will be replaced and planters will be located to the south of the entrance. Further the 12th Street facade will be sided with off-white, precast ceramic tiles.

11. On the Hamlin Street facade, there are two steel stairways which are beginning to corrode. The applicant proposes replacing them with concrete and brick stairs which will match the building.

12. Since the building was constructed prior to the 1980 adoption of the Handicapped Codes, it does not provide, and is not required to provide, convenient access for the handicapped. However, the applicants intend to accommodate the handicapped at the front entrance where most people approach the building.

13. Advisory Neighborhood Commission 5A did not submit a written report to the record on the subject application. The Chairman of ANC 5A's Housing and Economic Development Committee testified at the public hearing that the subject application was approved by the Committee and that the full ANC did not express any opposition to the application. The Board notes the Committee's approval but finds that it is not entitled to give "great weight" to the ANC's recommendation which is not reduced to written form as required by statute.

14. The Brookland Civic Association submitted a letter to the record in support of the subject application. The

Association commended the applicants for their consideration of the handicapped.

15. ANC Commissioner for Single Member District 5A09 recommended approval of the subject application as it would improve the community appearance and keep a needed function in the community.

16. A letter from a neighbor of the subject site was submitted in support of the subject application on the grounds that the proposed remodelling would enhance the neighborhood's appearance.

17. The applicants also own a site that is located on the west side of 12th Street and north of the subject site. The applicants occupy said site as the offices and parking lot for the funeral home. An adjacent neighbor to the office site objected to the negligent manner in which said site was maintained. The party objected to the accumulation of trash, fumes from the cars, loitering, noise and weeds. The Board finds that said adjacent site is not properly before it. It is not the subject matter of the instant applicant. The Board does however, caution the applicant to address the collateral concerns of its neighbor.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicants are seeking an area variance, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the relief requested can be granted without substantial detriment to the public good and that it will not substantially impair the intent of the zone plan.

The Board concludes that the applicant has met the burden of proof. The subject structure was built in 1958 and does not meet the 1980 handicapped codes. The proposed alteration to the structure is intended to provide convenient access for the handicapped at the main entrance. Minor remodeling is proposed to improve the appearance of the structure but no floor area will be added. The proposed structural alterations are moderate in nature and sensitive to the needs and well being of the clients of the funeral home and their safety.

The Board further concludes that the relief requested can be granted without substantial detriment to the public good and it will not substantially impair the intent of the zone plan. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 4-0 (Charles R. Norris, Patricia N. Mathews, William F. McIntosh and Carrie L. Thornhill to grant; Douglas J. Patton not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Cecil B. Tucker
CECIL B. TUCKER
Acting Executive Director

FINAL DATE OF ORDER: 26 MAR 1988

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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